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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/643,601	HIND ET AL.	
	Examiner	Art Unit	
	JOSHUA JOO	2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 December 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 18 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

Detailed Action

1. This Office action is in response to Applicant's communication filed on 09/04/2008.

Claims 1-20 are pending for examination.

Specification

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. For example, see Applicant's specification, paragraph 0035. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Response to Arguments

3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. Applicant's Remarks/Arguments that still apply to this Office action will be addressed. Applicant argued that:

4. (1) By construing the claims to exclude hardware, Examiner is improperly narrowing the scope of the claimed subject matter.

5. In response, the system of claims 9-12 does not comprise hardware. Applicant references paragraph 41 to indicate that the system may be realized in a computer. However, limitations appearing in the specification but not recited in the claim are not read into the claim

6. (2) Since the standard, as set forth by the Federal Circuit, only requires that the clients could require statutory subject matter, and since under a broadest reasonable claim construction, the claimed system could include hardware, claims 9-12 meet the requirements of 35 U.S.C. 101.

7. In response, Examiner respectfully disagrees that the claims 9-12 meet the requirements of 35 U.S.C. 101. Applicant intends for the present invention to be implemented as software. Furthermore, the claimed system of claims 9-12 does not comprise any hardware and the claimed logic may be defined as software. Therefore, the claimed system may reasonably be interpreted as software, and software does not meet one of the four statutory categories of invention.

8. (3) Examiner did not identify a particular passage within a reference that allegedly teaches a limitation.

9. In response, 37 CFR 1.104 states,

“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

10. Examiner is not required to identify a particular passage to every limitation of the claim. At most when a reference is complex or when a reference describes other inventions, a particular part relied must be designated as nearly as practicable.

Claim Objections

11. Claims 1-20 are objected to because of the following informalities:

i) Regarding claims 1, 9, and 13, in the phrase “circumventing the operation of content blocking logic”, “the operation” should be changed to “an operation” since the claims do not previously refer to an operation.

Claim Rejections - 35 USC § 101

12. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

13. Claims 9-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 9, Applicant is seeking to patent a system comprising of logic. Applicant intends for the present invention to be realized in software, and in addition, logic may be defined as software. The claimed system also does not comprise any hardware. Therefore, the claimed system is directed to a software system, and a software system does not meet one of the four categories of invention. Specifically, software is not a series of steps or acts and thus is not a process. Software is not a physical article or object and as such is not a machine or manufacture. Software is not a combination of substances and therefore not a composition of matter.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Gnargy et al. US Patent #7,058,633 (Gnargy hereinafter).

16. As per claim 1, Gnargy teaches the invention as claimed including a method for circumventing the operation of content blocking logic in a markup language document delivery system, the method comprising the steps of:

determining the operation of content blocking logic (col. 7, lines 28-32. Filters remove content based on domain name.);

locating in markup a reference to content (col. 7, lines 51-59. Recognize URL from returned Web page.);

replacing in said markup said reference with an alias (col. 7, lines 59-62. Replace URL with URL having an arbitrary domain.); and,

serving said markup to a requesting browser; whereby said replacement with said alias circumvents the operation of said content blocking logic (col. 7, lines 62-66. By using an arbitrary domain, the URL filters are circumvented.).

17. As per claim 2, Gnargy teaches the method of claim 1, further comprising the steps of: subsequent to said serving step, replacing said alias with a new alias; and, serving said markup with said new alias to the requesting browser (col. 7, lines 42-45; col. 8, lines 65-67. User request web content. It is implied that a user can request other web pages and thus receive other arbitrary URLs.).

18. As per claim 7, Gnargy teaches the method of claim 1, wherein said replacing step comprises the steps of: formulating said alias from said reference; and, replacing said reference with said alias (col. 8, lines 4-15. Arbitrary name is made close to URL. U1XXYZ to U1XXZY.).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 3, 9-15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy, in view of Granik et al. US Publication #2002/0010757 (Granik hereinafter).

21. As per claim 9, Gnargy teaches substantially the invention as claimed including a system for circumventing the operation of content blocking logic in a markup delivery system, the system comprising:

variable aliasing logic responsive to said detecting logic, said variable aliasing logic having a configuration for replacing content references in markup with aliases for said references (col. 7, lines 59-62. Replace URL with URL having an arbitrary domain.).

22. Gnargy does not specifically teach of a detecting logic for detecting content blocking logic.

23. Granik teaches of logic for detecting content blocking logic (Paragraph 0039. Monitor number of blocked advertisements.).

24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to implement logic for detecting content blocking logic. The motivation for the suggested combination is that Granik's teachings would improve Gnargy's teachings by enabling replacement of content with appropriate or desirable content based on monitored information (Paragraphs 0009-0010).

25. As per claim 13, Gnargy teaches substantially the invention as claimed including a machine readable storage having stored thereon a computer program for circumventing the operation of content blocking logic in a markup language document delivery system, the computer program comprising a set of instructions for causing the machine to perform the steps of:

locating within markup a reference to content (col. 7, lines 51-59. Recognize URL from returned Web page.);

replacing in said markup said reference to said content with an alias (col. 7, lines 59-62. Replace URL with URL having an arbitrary domain.); and,

serving said markup to a requesting browser; whereby said replacement of said reference with said alias circumvents the operation of said content blocking logic (col. 7, lines 62-66. By using an arbitrary domain, the URL filters are circumvented.).

26. Gnargy does not specifically teach of instructions for determining the operation of content blocking logic.

27. Granik teaches of logic for detecting content blocking logic (Paragraph 0039. Monitor number of blocked advertisements.).

28. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to implement logic for detecting content blocking logic. The motivation for the suggested combination is that Granik's teachings would improve Gnargy's teachings by enabling replacement of content with appropriate or desirable content based on monitored information (Paragraphs 0009-0010).

29. As per claim 3, Gnargy teaches the method of claim 2, wherein said new alias is selected from a set of aliases (col. 9, lines 5-7. Use IP address from pool of addresses) but not specifically in a round-robin manner.

30. Granik teaches of selecting in a round-robin manner (Paragraph 0048).

31. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for selecting of a new alias from a set of alias as taught by Gnargy to be in a round robin manner as taught by Granik. The motivation for the suggested combination is that Granik's teachings would provide an ordered method of selecting an alias and provide replacement of content with appropriate or desirable content based on monitored information (Paragraphs 0009-0010).

32. As per claim 10, Gnargy teaches the system of claim 9, wherein said variable aliasing logic is communicatively coupled to a reverse proxy (col. 9, lines 33-35. System translates false domain into real domain name.).

33. As per claim 11, Gnargy teaches the system of claim 9, further comprising an alias table comprising a plurality of entries, each entry correlating an alias with corresponding content (col. 7, lines 47-55; col. 8, lines 64-67. Recognize domain names of advertiers.).

34. As per claim 12, Gnargy teaches the system of claim 9, further comprising:
an address encoder having logic for producing an encoded string based upon at least a portion of a reference (col. 8, lines 4-15. Create domain name similar to actual domain name.);
a simulated path formulator coupled to said encoder, said formulator having a configuration for generating a simulated path to supplemental content (col. 9, lines 5-9. Use false IP address); and,
a translation table configured to store said simulated path and at least a portion of said reference (col. 9, lines 15-17. Table with arbitrary name and corresponding actual domain name.).

35. As per claim 14, Gnargy teaches the machine readable storage of claim 13, further comprising the steps of: subsequent to said serving step, replacing said alias with a new alias; and, serving said markup with said new alias to a requesting browser (col. 7, lines 42-45; col. 8, lines 65-67. User request web content. It is implied that a user can request other web pages and thus receive other arbitrary URLs.).

36. As per claim 15, Gnargy teaches the machine readable storage of claim 14, wherein said new alias is selected from a set of aliases (col. 9, lines 5-7. Use IP address from pool of addresses) but not specifically in a round-robin manner.

37. Granik teaches of selecting in a round-robin manner (Paragraph 0048).

38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for selecting of a new alias from a set of alias as taught by Gnargy to be in a round robin manner as taught by Granik. The motivation for the suggested combination is that Granik's teachings would provide an ordered method of selecting an alias and provide replacement of content with appropriate or desirable content based on monitored information (Paragraphs 0009-0010).

39. As per claim 19, Gnargy teaches the machine readable storage of claim 13, wherein said replacing step comprises the steps of: formulating said alias from said reference; and, replacing said reference with said alias (col. 8, lines 4-15. Arbitrary name is made close to URL. U1XXYZ to U1XXZY.).

40. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy, in view of Schmacher, US Patent #7,444,369 (Schmacher hereinafter).

41. As per claim 4, Gnargy does not specifically teach the method of claim 1, further comprising the steps of: inserting a refresh tag in said markup to command a refreshing of said markup within a shortened period of time; and, performing said locating, replacing and serving steps with a new alias subsequent to said refreshing.

42. Schumacher teaches of inserting a refresh tag in a markup to command a refresh of the markup within a shorten period of time and providing a new alias subsequent to the refresh (col. 4, lines 2-11. Refresh tag. Respond with second URL.).

43. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to insert a refresh tag in a markup to command a refresh of the markup within a shorten period of time and provide a new alias subsequent to the refresh as taught by Schumacher such that the new alias undergoes said locating, replacing, and serving as taught by Gnargy. The motivation for the suggested combination is that Schumacher's teachings would improve Gnargy's teachings by enabling automatically retrieval of updated content.

44. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy, in view of Granik and Koeppel et al. US Patent #6,447,575 (Koeppel hereinafter).

45. As per claim 5, Granik does not specifically teach the method of claim 1, wherein said determining step comprises the steps of: tracking a number of references to content disposed in said markup; further tracking a number of requests for content produced when rendering said markup; and, determining that content blocking has occurred when a difference between said references and said requests exceeds a threshold value.

46. Granik teaches of determining that content block has occurred (Paragraph 0039. Monitor number of blocked advertisements.).

47. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine that content block has occurred. The motivation for the suggested combination is that Granik's teachings would improve Gnargy's teachings by enabling replacement of content with appropriate or desirable content based on monitored information (Paragraphs 0009-0010).

48. Koeppel teaches of tracking a number of references to content disposed in a markup; tracking a number of requests for content produced when rendered said markup and determining a difference between said references and said requests (col. 3, lines 9-22. Determining that a sufficient number of "click through" have been produced).

49. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to track a number of references to content disposed in a markup; track a number of requests for content produced when rendered said markup and determine a difference between said references and said requests as taught by Koeppel to determine that content block has occurred as taught by the suggested system. The motivation for the suggested combination is that Koeppel's teachings would improve the suggested system by collecting information in order to present appropriate advertisement to a user.

50. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy, in view of Granik and Trubey et al. US Publication #2002/0077930 (Trubey hereinafter).

51. As per claim 6, Gnargy does not specifically teach the method of claim 1, wherein said determining step comprises the steps of: statistically tracking instances of served content; and, determining that content blocking has occurred when a particular one of said served content has not been served as often as indicated by said statistical trackings.

52. Granik teaches of determining that content block has occurred (Paragraph 0039. Monitor number of blocked advertisements.).

53. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine that content block has occurred. The motivation for the suggested

combination is that Granik's teachings would improve Gnargy's teachings by enabling replacement of content with appropriate or desirable content based on monitored information (Paragraphs 0009-0010).

54. Trubey teaches of statistically tracking instances of served content; and, determining when a particular one of said served content has not been served as often as indicated by said statistical trackings (Paragraph 0168. Click-through rate is below historical click through rate.).

55. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine that content block has occurred as taught by the suggested system when a particular one of said served content has not been served as often as indicated by said statistical trackings as taught by Trubey. The motivation for the suggested combination is that Trubey's teachings would improve the suggested system by providing statistics and status to assist a merchandiser in selecting pages to merchandise (Paragraph 0161).

56. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy, in view of Howerton, III et al. US Publication #2001/0049701 (Howerton hereinafter).

57. As per claim 8, Gnargy teaches the method of claim 7, wherein said formulating step comprises the steps of: encoding a string based upon a uniform resource identifier (URI) in said reference (col. 8, lines 4-15. Generate a domain name similar to actual domain name.); recording said simulated path and a correlation to said reference in an alias table for use when de-referencing said URI into said simulated path (col. 9, lines 15-17. Table with arbitrary name and corresponding actual domain name.). Gnargy does not specifically teach of interspersing at least one file system delimiter in said encoded string to generate a simulated path to said supplemental content; and combining a network address for a local file system with said simulated path.

58. Howerton teaches of inserting a path to a string to supplement content and combining a network address for a local file system with a simulated path (Paragraph 0031. Identify a path in a directory to service ads.).

59. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to intersperse at least one file system delimiter in said encoded string to generate a simulated path to said supplemental content; and combine a network address for a local file system with said simulated path. The motivation for the suggested combination is that Howerton's teachings would improve Gnargy's teachings by providing a reference to specific advertisements.

60. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy and Granik, in view of Schumacher.

61. As per claim 16, Gnargy does not specifically teach the machine readable storage of claim 13, further comprising the steps of: inserting a refresh tag in said markup to command a refreshing of said markup within a shortened period of time; and, performing said locating, replacing and serving steps with a new alias subsequent to said refreshing.

62. Schumacher teaches of inserting a refresh tag in a markup to command a refresh of the markup within a shorten period of time and providing a new alias subsequent to the refresh (col. 4, lines 2-11. Refresh tag. Respond with second URL.).

63. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to insert a refresh tag in a markup to command a refresh of the markup within a shorten period of time and provide a new alias subsequent to the refresh as taught by Schumacher such that the new alias undergoes said locating, replacing, and serving as taught by Gnargy. The motivation

for the suggested combination is that Schumacher's teachings would improve Gnargy's teachings by enabling automatically retrieval of updated content.

64. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy and Granik in view of Koepll.

65. As per claim 17, Gnargy and Granik teach of determining that content blocking has occurred but do not specifically teach the machine readable storage of claim 13, wherein said determining step comprises the steps of: tracking a number of references to content disposed in said markup; further tracking a number of requests for content produced when rendering said markup; and, when a difference between said references and said requests exceeds a threshold value.

66. Koeppel teaches of tracking a number of references to content disposed in a markup; tracking a number of requests for content produced when rendered said markup and determining a difference between said references and said requests (col. 3, lines 9-22. Determining that a sufficient number of "click through" have been produced).

67. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to track a number of references to content disposed in a markup; track a number of requests for content produced when rendered said markup and determine a difference between said references and said requests as taught by Koeppel to determine that content block has occurred as taught by the suggested system. The motivation for the suggested combination is that Koeppel's teachings would improve the suggested system by collecting information in order to present appropriate advertisement to a user.

68. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy and Granik, in view of Trubey.

69. As per claim 18, Gnargy and Granik teaches of determining that content block has occurred but do not specifically teach the machine readable storage of claim 13, wherein said determining step comprises the steps of: statistically tracking instances of served content; and, determining when a particular one of said served content has not been served as often as indicated by said statistical trackings.

70. Trubey teaches of statistically tracking instances of served content; and, determining when a particular one of said served content has not been served as often as indicated by said statistical trackings (Paragraph 0168. Click-through rate is below historical click through rate.).

71. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine that content block has occurred as taught by the suggested system when a particular one of said served content has not been served as often as indicated by said statistical trackings as taught by Trubey. The motivation for the suggested combination is that Trubey's teachings would improve the suggested system by providing statistics and status to assist a merchandiser in selecting pages to merchandise (Paragraph 0161).

72. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gnargy and Granik, in view of Howerton, III et al. US Publication #2001/0049701 (Howerton hereinafter).

73. As per claim 20, Gnargy teaches the machine readable storage of claim 19, wherein said formulating step comprises the steps of: encoding a string based upon a uniform resource identifier (URI) in said reference (col. 8, lines 4-15. Generate a domain name similar to actual domain name.) and recording said simulated path and a correlation to said reference in an alias table for use when de-referencing said URI into said simulated path (col. 9, lines 15-17. Table with arbitrary name and

corresponding actual domain name.). Gnargy does not specifically teach of interspersing at least one file system delimiter in said encoded string to generate a simulated path to said supplemental content; combining a network address for a local file system with said simulated path; and,

74. Howerton teaches of inserting a path to a string to supplement content and combining a network address for a local file system with a simulated path (Paragraph 0031. Identify a path in a directory to service ads.).

75. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to intersperse at least one file system delimiter in said encoded string to generate a simulated path to said supplemental content; and combine a network address for a local file system with said simulated path. The motivation for the suggested combination is that Howerton's teachings would improve the suggested system by providing a reference to specific advertisements.

Conclusion

76. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

77. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Thursday 8AM to 5PM and every other Friday.

78. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

79. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./
Examiner, Art Unit 2454

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2454